Mad Rozi bin Che Din v Public Prosecutor

COURT OF APPEAL (PUTRAJAYA) — CRIMINAL APPEAL NO R-05–137 OF 2010
APANDI ALI, AZAHAR MOHAMED AND BALIA YUSOF JJCA
16 MAY 2013

Criminal Law — Dangerous drugs — Trafficking — Trafficking in 53,074.47g of cannabis — Conviction and sentence — Appeal against — Drugs hidden in between boxes in cargo compartment of lorry — Confessional of carrying drugs by appellant to customs officer — Statement made prior to discovery of drugs — No caution under s 37A of the Dangerous Drugs Act 1952 administered — Whether appellant when making admission was under actual arrest or constructive arrest — Whether caution ought to be excluded — Possession and knowledge — Whether appellant had exclusive possession of drugs — Whether accused's exculpatory evidence stood unshaken — Whether prosecution had proven its case beyond reasonable doubt — Whether trial judge conducted maximum evaluation of appellant's evidence — Dangerous Drugs Act 1952 ss 37A & 39B(1)(a) — Customs Act 1967 ss 101 & 111

The appellant was charged and convicted for trafficking in 53,074.47g of dangerous drugs, namely cannabis, an offence under s 39B(2) of the Dangerous Drugs Act 1952 ('DDA'). The learned judicial commissioner ('JC') sentenced him to the mandatory death penalty prescribed by the DDA. The salient facts made out a prima facie case against the appellant were as follows. Acting on information received, SP7, a customs officer, carried out surveillance on a lorry driven alone by the appellant at the Immigration Complex, Padang Besar. Subsequently, SP6, another customs officer, instructed the lorry to be scanned at the scanning machine that was being manned by SP4. After the lorry was scanned through the machine, SP4 found that the front portion of the lorry contained some suspicious images. Thereafter, the appellant was directed by SP6 to open the 'kain tarpan' of the lorry but he refused. Next, there was an exchange of words between SP6 and the appellant. It was at this point, according to SP6, that the appellant admitted to him that he was carrying 'ganja'. Through thorough search of the lorry, SP6 and SP7 found five plastic bags containing compressed slabs of dried leaves, suspected to be cannabis, which were hidden in between the boxes in the cargo compartment. The contents of the five bags were later confirmed by SP3, the chemist, to be 53,074.47g of cannabis. After the conclusion of the case for the prosecution, the learned JC made a finding that the appellant was in actual possession of the dangerous drugs in question and as the weight of the cannabis was more than 200g, he invoked the presumption of trafficking under s 37(da) of the DDA. The appellant in his defence, denied any knowledge of the presence of drugs

hidden in the lorry driven by him. The learned JC came to the conclusion that the appellant failed to raise a reasonable doubt on the prosecution's case and failed to rebut the presumption of trafficking under s 37(da) of the DDA on a balance of probabilities. Before this court, the appellant's counsel raised two principal grounds in support of this appeal namely, (a) that the appellant's confessional statement to SP6 that he was carrying 'ganja' must be excluded because no caution under s 37A of the DDA was administered, despite the fact that the appellant was at that time under arrest; and (b) the failure of the learned JC to conduct maximum evaluation of the appellant's evidence that a third party could have placed the offending drugs in between the boxes in the cargo compartment of the lorry.

Held, dismissing the appeal, affirming conviction and sentence of death:

(1) The word 'menahan' used by SP6 simply means to make inquiries and to carry out a search on the lorry, based on the information received, as he was permitted to do so under the provisions of ss 101 and 111 of the Customs Act 1967. SP6 had no knowledge that the appellant was transporting the offending cannabis. SP6 'menahan' the appellant to make inquiries and to scan the lorry based on the information received. That being the case, the appellant was not under arrest the moment SP6 'menahan' the appellant prior to the discovery of the five plastic bags (which was later confirmed to contain cannabis), which were hidden in between boxes in the cargo compartment of the lorry (see para 11).

(2) The need to administer the caution under s 37A of the DDA only arises after actual arrest and not constructive arrest. Given that, when the appellant made the statement he was not yet under arrest. His statement that he was carrying 'ganja', was therefore admissible in evidence (see paras 12–13).

(3) A scrutiny of the judgment of the learned JC, revealed that he had considered and judicially appreciated the points raised by the defence before coming to a definite finding of fact that the appellant had complete custody, control and responsibility over the lorry and that the appellant had the required knowledge about the cannabis found hidden in the cargo compartment of the lorry. Moreover, the defence never suggested to SP10 that a third party could have placed the offending drugs in between the boxes in the cargo compartment of the lorry, without the knowledge of the appellant. On the facts of the present case, the complaint of defence counsel lacked merit (see paras 15–16).

[Bahasa Malaysia summary

Perayu dituduh dan disabitkan bagi pengedaran 53,074.47g dadar berbahaya, iaitu kanabis, satu kesalahan di bawah s 39B(2) Akta Dadah Berbahaya 1952 ('ADB'). Pesuruhjaya kehakiman ('PK') menjatuhkan hukuman mati

mandatori ke atasnya seperti yang diperuntukkan oleh ADB. Fakta penting membentuk prima facie terhadap perayu adalah seperti berikut. Bertindak atas maklumat yang diterima, SP7, seorang pegawai kastam, telah menjalankan pengawasan ke atas lori yang dipandu berseorangan oleh perayu di Kompleks Imigresen, Padang Besar. Kemudian, SP6, seorang lagi pegawai kastam, mengarahkan lori tersebut diimbas di mesin pengimbas yang dikelolakan oleh SP4. Selepas lori tersebut diimbas melalui mesin, SP4 mendapati bahawa bahagian hadapan lori tersebut mengandungi imej yang mencurigakan. Selepas itu, perayu diarahkan oleh SP6 agar membuka 'kain tarpan' lori tersebut tetapi dia enggan. Seterusnya, berlaku perbualan antara SP6 dan perayu. Pada waktu ini, menurut SP6, perayu mengaku kepadanya bahawa dia sedang membawa 'ganja'. Melalui pencarian menyeluruh ke atas lori, SP6 dan SP7 menjumpai lima beg plastik terletak antara celah-celah kotak-kotak dalam bahagian kargo. Kandungan lima beg tersebut kemudian disahkan oleh SP3, seorang ahli kimia, sebagai 53,074.47g kanabis. Di akhir kes pendakwaan, PK memutuskan bahawa perayu mempunyai milikan sebenar dadah dan oleh kerana berat kanabis tersebut adalah lebih daripada 200g, beliau membangkitkan anggapan pengedaran di bawah s 37(da) ADB. Perayu dalam pembelaannya, menafikan apa-apa pengetahuan mengenai kehadiran dadah yang disembunyikan dalam lori yang dipandunya. PK memutuskan bahawa perayu gagal membangkitkan sebarang keraguan munasabah ke atas kes pendakwaan dan gagal mematahkan anggapan pengedaran di bawah s 37A ADB atas imbangan kebarangkalian. Di mahkamah ini, peguam perayu mengemukakan dua alasan utama bagi menyokong rayuan ini iaitu, (i) bahawa pernyataan pengakuan kepada SP6 bahawa dia membawa 'ganja' mestilah dikecualikan kerana tiada amaran di bawah s 37A ADB telah dijalankan, walaupun fakta bahawa perayu pada masa itu telah ditahan; dan (ii) kegagalan PK untuk menjalankan penilaian maksimum ke atas keterangan perayu bahawa pihak ketiga berkemungkinan telah meletakkan dadah tersebut antara celah-celah kotak-kotak di bahagian kargo lori.

Diputuskan, menolak rayuan, mengekalkan sabitan dan hukuman mati:

(1) Perkataan 'menahan' yang digunakan oleh SP6 hanya bermaksud menyoal dan menjalankan carian ke atas lori, berdasarkan maklumat yang diterima, kerana dia dibenarkan berbuat demikian di bawah peruntukan ss 101 dan 111 Akta Kastam 1967. SP6 tidak mempunyai pengetahuan bahawa perayu sedang membawa kanabis tersebut. SP6 'menahan' perayu untuk menyoalnya dan mengimbas lori tersebut berdasarkan maklumat yang diterima. Dengan demikian, perayu bukanlah ditahan apabila SP6 'menahan' perayu selepas menjumpai lima beg plastik (yang kemudiannya disahkan mengandungi kanabis) yang disorokkan antara celah-celah kotak-kotak dalam bahagian kargo lori (lihat perenggan 11).

(2) Keperluan memberi amaran di bawah s 37A ADB berbangkit dalam

penahanan sebenar dan bukan penahanan konstruktif. Dengan itu, semasa perayu membuat pernyataan tersebut, dia belum lagi ditahan. Pernyataannya bahawa dia membawa 'ganja', dengan itu, boleh diterima sebagai keterangan (lihat perenggan 12–13).

(3) Penelitian kepada penghakiman PK menunjukkan bahawa beliau telah mempertimbangkan hujah-hujah yang dikemukakan oleh pihak pembelaan secara kehakiman sebelum membuat dapatan fakta bahawa perayu mempunyai milikan, kawalan dan tanggungjawab ke atas lori tersebut dan perayu mempunyai pengetahuan yang diperlukan mengenai kanabis yang disorokkan dalam bahagian kargo lori. Tambahan lagi, pembelaan tidak pernah mencadangkan kepada SP10 bahawa pihak ketiga berkemungkinan telah meletakkan dadah tersebut antara celah-celah kotak-kotak dalam bahagian kargo lori, tanpa pengetahuan perayu. Berdasarkan fakta kes ini, aduan peguam pembela tidak bermerit (lihat perenggan 15–16).]

Notes

For cases on trafficking, see 4(1) *Mallal's Digest* (4th Ed, 2012 Reissue) paras 205–300.

Cases referred to

PP v David Ackowuah Bonsu [1998] 7 MLJ 451; [1999] 2 CLJ 677, HC (refd)
PP v Lim Hock Boon [2009] 3 MLJ 604, FC (refd)

Legislation referred to

Customs Act 1967 ss 101, 111
Dangerous Drugs Act 1952 ss 37(da), 37A, 39B(2)

Hisham Teh Poh Teik (Teh Poh Teik & Co) for the appellant.
Aslinda Ahad (Deputy Public Prosecutor, Attorney General's Chambers) for the respondent.

Azahar Mohamed JCA (delivering judgment of the court):

[1] Mad Rozi bin Che Din ('the appellant') was charged and tried before the Kangar High Court for trafficking in 53,074.47g of dangerous drugs, namely cannabis, an offence under s 39B(2) of the Dangerous Drugs Act 1952 ('DDA'), and punishable under s 39B(2) of the DDA. The offence was said to have been committed on 29 December 2004 at about 8.40pm at 'Stor Pencegahan Padang Besar Taman Kastam Dua', in the district of Padang Besar, in the State of Perlis.

[2] The learned judicial commissioner ('JC') at the conclusion of the trial convicted the appellant and sentenced him to the mandatory death penalty

prescribed by the DDA. The appellant then appealed to this court. We heard his appeal, wherein at its conclusion we unanimously dismissed it. We affirmed the conviction and sentence. We now give our reasons for dismissing the appeal.

[3] The learned JC had well set out in his judgment the facts of the case and the salient evidence which he held made out a prima facie case against the appellant. Very briefly, the pertinent facts are these. Indera bin Idris ('SP7') is a customs officer attached to the Customs Narcotic Unit. On 29 December 2004 at about 4.30pm, acting on information received, SP7 carried out surveillance on lorry No KX 8026 at the Immigration Complex, Padang Besar. He noticed the target lorry parked at the custom's gate pass of the Immigration Complex. He then saw the lorry being driven to a spot and then it stopped. The appellant was the driver of the lorry and he was alone in the lorry. The appellant then came out from the lorry and proceeded towards the customs office. Subsequently, another customs officer, Hesley bin Ahmad ('SP6') prevented the lorry from being driven away. He instructed the lorry to be scanned at the scanning machine that was being manned by customs officer Roslan bin Aziz ('SP4'). After the lorry was scanned through the machine, SP4 found that the front portion of the lorry contained some suspicious images. Thereafter the appellant was directed by SP6 to open the 'kain tarpan' of the lorry but he refused. Next, there were exchanges between SP6 and the appellant. It was at this point, according to SP6, the appellant admitted to him that he was carrying 'ganja'. In this regard, the material part of the evidence of SP6 is as follows:

> Saya kemudiannya mengarahkan Orang Kena Tuduh membuka kain tarpan lori tersebut untuk membolehkan saya melakukan pemeriksaan tetapi Orang Kena Tuduh enggan membuka kain tarpan tersebut dan mengajak saya berbincang. Saya bertanya kepada Orang Kena Tuduh 'apa sebenarya yang beliau bawa di bahagian hadapan muatan kargo lori'. Orang Kena Tuduh telah memberitahu kepada saya dia 'membawa mercun'. Saya tetap mengarahkan Orang Kena Tuduh membuka kain tarpan lorinya untuk saya periksa. Orang Kena Tuduh sekali lagi minta berbincang dengan saya dan dengan En. Indera. Saya pun sekali lagi bertanya kepada Orang Kena Tuduh 'apa sebenarnya muatan yang dia bawa'. Orang Kena Tuduh kemudiannya mengaku kepada saya dan En. Indra yang beliau membawa ganja. Sebaik mendengar pengakuan Orang Kena Tuduh, saya minta En. Indra menangkap Orang Kena Tuduh dan menggariya.

[4] The said lorry was subsequently taken to 'Stor Pencegahan Padang Besar Taman Kastam Dua' for further investigation. It was there, after the lorry was thoroughly searched, SP6 and SP7 found five plastic bags containing compressed slabs of dried leaves, suspected to be cannabis, which were hidden in between the boxes in the cargo compartment.

[5] The five plastic bags were later sent to the Chemistry Department for chemical examination and analysis. The contents of the five bags were later confirmed by the chemist, Khairuzzaman bin Mustafa ('SP3') to be 53,074.47g of cannabis.

[6] After conclusion of the case for the prosecution, the learned JC came to the finding that the prosecution had made out a prima facie case against the appellant. The learned JC made a finding that the appellant was in actual possession of the dangerous drugs in question and as the weight of the cannabis was more than 200g, he invoked the presumption of trafficking under s 37(da) of the DDA. The learned JC then called upon the appellant to enter his defence. The appellant elected to give sworn evidence. The appellant denied any knowledge of the presence of drugs hidden in the lorry driven by him.

[7] At the conclusion of the trial, on the totality of the evidence, the learned JC came to the conclusion that the appellant failed to raise a reasonable doubt on the prosecution's case and failed to rebut the presumption of trafficking under s 37(da) of the DDA on a balance of probabilities. As indicated earlier, the appellant was convicted of the offence and sentenced accordingly.

[8] Before us, learned counsel for the appellant raised two principal grounds in support of this appeal.

[9] First, learned counsel argued that the appellant's confessional statement to SP6 must be excluded. It will be recalled that SP6 said in evidence that the appellant admitted to him that he was carrying 'ganja'. Learned counsel argued that the statement, which we have highlighted earlier in the judgment, was inadmissible for the reason that at the time it was uttered, no caution under s 37A of the DDA was administered, despite the fact that the appellant was at that time under arrest. He brought to our attention the following parts of the evidence of SP6 at p 126 of the appeal record vol 1:

> S: Dalam keterangan awal yang lepas, awak mengatakan 'sebaik sahaja lori tersebut hendak bergerak keluar, saya terus menahan lori tersebut', tolong jelaskan maksud keterangan awal ini.
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> J: Saya menahan OKT sebaik sahaja OKT menghampiri lorinya dan ketika OKT cuba bawa keluar lori dari Unit Dagangan Jalan Raya. Masa ini OKT belum lagi masuk ke dalam lori tetapi dalam proses untuk membuka pintu lori sebelah pemandu.

[10] We were unable to agree with this submission. In our judgment, the issue of admissibility of the appellant's statement to SP6 to the effect that he was carrying 'ganja' was wholly decided by the learned JC on the facts and the prevailing circumstances of the case, based on the credibility of the witnesses

and the inherent probabilities of their testimonies. To address this issue, as a starting point, the relevant statutory provisions of the Customs Act 1967 ('1967 Act') are reproduced herein:

> Section 101:
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> Every person required by the proper officer of customs to give information or produce any documents on any subject into which it is such officer's duty to enquire under this Act and which it is in such person's power to give shall be legally bound to give such information or produce such documents.
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> Section 111:
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> (1) The person in charge or in control of any vehicle arriving at a prescribed place of import and export shall, on arrival at such place, produce his vehicle to the proper officer of customs, and shall, if so required, move his vehicle to another place for examination, and shall not proceed until permission to do so has been given by the proper officer of customs.
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> (2) Any officer of customs may stop and examine any vehicle for the purpose of ascertaining whether any uncustomed or prohibited goods are contained therein, and the person in control or in charge of such vehicle shall if required so to do by such officer, stop such vehicle and allow such officer to examine the same.
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> (3) The person in control or in charge of any vehicle examined under this section shall on request by the proper officer of customs open all parts of the vehicle for examination by such officers and take all measures necessary to enable such examination as such officer considers necessary to be made.

[11] In our view, in the context of the present case, the word 'menahan' used by SP6 simply means to make inquiries and to carry out a search on the lorry, based on the information received, as he was permitted to do so under the provisions of ss 101 and 111 of the 1967 Act (see *Public Prosecutor v David Ackowuah Bonsu* [1998] 7 MLJ 451; [1999] 2 CLJ 677). It is important to note that at that point of time, SP6 had no knowledge that the appellant was transporting the offending cannabis. SP6 'menahan' the appellant to make inquiries and to scan the lorry based on the information received. That being the case, we do not agree with the arguments of learned counsel that the appellant was under arrest the moment SP6 'menahan' the appellant prior to the discovery of the five plastic bags (which was later confirmed to contain cannabis), which were hidden in between boxes in the cargo compartment of the lorry.

[12] The need to administer the caution under s 37A of the DDA only arises after actual arrest and not constructive arrest (see *Public Prosecutor v Lim Hock Boon* [2009] 3 MLJ 604). In this regard, in his judgment the learned JC said:

A Di dalam kes ini, SP6 telah meminta OKT untuk membuka kain tarpan bagi membolehkan beliau melakukan pemeriksaan. Tindakan ini adalah selaras dengan peruntukan di bawah ss 101, 111 dan s 113 Akta Kastam 1967 yang membenarkan pertanyaan dibuat dan pemeriksaan dilakukan. Pada ketika itu tidak ada apa-apa kesalahan dilakukan oleh OKT kecuali terdapat syak wasangka berdasarkan dua
B imej yang berbeza dalam gambar imej, P143.

Atas permintaan SP6 itu, OKT enggan membukanya tetapi di sebaliknya mengajak SP6 untuk berbincang. Lalu SP6 terus bertanya 'apa sebenarnya yang beliau bawa di bahagian hadapan muatan kargo lori'. OKT menjawab dia membawa 'mercun'. SP6 tidak berpuas hati dan tetap mengarahkan OKT membuka kain tarpan lori tersebut.
C OKT masih lagi enggan membuka kain tarpan dan mengajak SP6 dan SP7 berbincang. SP6 bertanya lagi 'apa sebenarnya muatan yang dia bawa'. Lalu OKT membuat pengakuan kepada SP6 dan SP7 dia membawa ganja. Mendengar sahaja jawapan OKT ini, OKT telah ditangkap dengan menggari tangannya.

D Pertanyaan oleh SP6 dibuat selaras dengan kuasa yang dibenarkan oleh peruntukan ss 101, 111 dan s 113 Akta Kastam 1967 iaitu tindakan menahan, membuat pertanyaan dan melakukan pemeriksaan. Pada ketika itu, OKT belum lagi ditangkap bagi tujuan s 37A Akta Dadah Berbahaya. OKT hanya ditangkap oleh SP7 secara digari selepas OKT memberitahu dia 'membawa ganja' bagi menjawab pertanyaan SP6. Jawapan OKT kepada pertanyaan SP6 adalah admissible.
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[13] In our judgment, on consideration of the evidence before us, there was more than sufficient admissible evidence to support the learned JC's findings. In our view, there was no error made by the learned JC, warranting appellate
F intervention. Given that the appellant at the time he made the statement was not yet under arrest, his statement that he was carrying 'ganja' was therefore admissible in evidence.

[14] Finally, we now turn to consider the appellant's complaint that the
G learned JC failed to conduct maximum evaluation of the evidence. In the trial before the learned JC, the prosecution called, among others,Yusob Namyuri ('SP10') to show that it was the appellant who was responsible for the presence of the five plastic bags in the lorry. SP10 was in charge of loading the boxes into the lorry. His duty was to load/unload cargo from lorry. His place of job was at
H Padang Besar at the Thailand side. He has his superior by the name of 'Li'. According to SP10, on 29 December 2004 he worked as usual. On that day his duty was to unload boxes containing 'bihun' and load them into Malaysian lorries. He indentified the appellant as the driver of the lorry. He said the appellant was alone. He confirmed that the lorry driven by the appellant was
I empty. He then loaded those boxes into the lorry. Learned counsel argued that the presence of Li in court was very important otherwise the chain of circumstances was broken. According to learned counsel, the lorry was open to access to others and that it was the prosecution's duty to exclude this possibility. He further argued that the learned JC had overlooked this aspect in his

evaluation process and had the learned JC conducted maximum evaluation, his attention would have captured this weakness in the prosecution's case.

[15] In considering this head of the appellant's complaint, we had closely scrutinised the judgment of the learned JC. A scrutiny of the judgment of the learned JC, revealed that he had considered and judicially appreciated the point raised by learned counsel before coming to a definite finding of fact that the appellant had complete custody, control and responsibility over the lorry and that the appellant had the required knowledge about the cannabis found hidden in the cargo compartment of the lorry. In the words of the learned JC:

> Dadah ganja di dalam kes ini dijumpai di dalam lori tersebut. Ong Boon Hua, SP9 ialah pengurus dan rakan kongsi syarikat pengangkutan Lee Hang Chan Trading di Bukit Mertajam. OKT adalah pemandu lori tersebut dan bertanggungjawab yang penuh ke atasnya. Lori tersebut disimpan di rumah OKT, jika tidak digunakan. OKT tidak dibekalkan dengan kalendan/pembantu oleh syarikat Lee Heng Chan Trading.
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> Yusof bin Mat, SP10 mengatakan lori tersebut tiada membawa apa-apa muatan ketika datang di Padang Besar sebelah Thailand. Menurut SP10 lagi, OKT datang seorang diri. Setelah lori tersebut diisi penuh dengan kotak-kotak bihun, OKT sendiri yang menutup kain tarpan dan memandu lori tersebut keluar dari kawasan itu. Tiada sesiapa bersama-sama OKTpada masa itu.
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> Rosli bin Hussin, SP5 memberitahu bahawa ketika di Kompleks Kastam Thai di Padang Besar sebelah Thailand, OKT memandu lori tersebut seorang diri. Tiada orang lain bersamanya.
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> Dari keterangan-keterangan SP5, SP9, SP10 di atas menunjukkan lori tersebut pada masa yang material dan pada masa-masa sebelumnya adalah sentiasa berada di bawah kawalan (*control*) danjagaan (*custody*) OKT.
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> Seterusnya keterangan pihak pendakwaan menunjukkan OKT di antara lain, mengaku dia membawa dadah ganja di dalam lori tersebut ketika disoal oleh SP6. Ini menunjukkan OKT mempunyai pengetahuan tentang dadah tersebut.

[16] Moreover, the defence never suggested to SP10 that a third party could have placed the offending drugs in between the boxes in the cargo compartment of the lorry, without the knowledge of the appellant. On the facts of the present case, we therefore found the complaint of learned counsel lacked merit.

[17] It is also clear from a reading of the judgment of the learned JC that he had critically appraised the defence that the appellant did not have any knowledge about the cannabis. In this regard, the learned JC had this to say:

> Oleh itu amatlah sukar untuk mempercayai atau untuk mengatakan bahawa OKT tidak tahu bagaimana dadah itu berada di dalam lori tersebut yang dipandunya kerana OKT yang mempunyai kawalan dan penjagaan ke atasnya dan inferen yang

kuat bahawa OKT mempunyai pengetahuan, kawalan, penjagaan dan milikan ke atas barang-barang yang berada di dalam lori tersebut termasuk dadah ganja. Adalah tidak munasabah orang lain yang menganiayakan OKT dengan menyembunyikan ganja di dalam lori tersebut dengan kuantiti yang sangat banyak yang mempunyai nilai yang tinggi.

Berdasarkan keterangan SP10 yang tidak dicabar tidak mungkin ada orang lain yang boleh memasukkan dadah ganja ke dalam lori tersebut semasa pemunggahan seperti yang ingin dicadangkan dalam pembelaan OKT kecuali kemasukan dadah ganja tersebut melalui perbuatan dan pengetahuan OKT sendiri kerana selepas kotak-kotak bihun dimuat oleh SP10, OKT terus mengambil alih kawalan dan jagaan lori tersebut sehingga Ion tersebut diperiksa oleh Kastam Malaysia dan diimbas (*scan*) oleh Kastam Pencegahan yang diketuai oleh SP6.

[18] In our judgment, the totality of the evidence and the surrounding circumstances when taken together irresistibly point to the appellant having knowledge of the offending cannabis contained in the five plastic bags, which were hidden in between boxes in the cargo compartment of the lorry at the material time.

[19] We found the conviction of the appellant to be a safe one. We had, therefore, dismissed the appeal. We affirmed the conviction and the sentence of death imposed by the learned JC upon the appellant.

Appeal dismissed, conviction and sentence of death affirmed.

Reported by Ashgar Ali Ali Mohamed